

## **CHAPTER 18-10**

### **RURAL FIRE PROTECTION DISTRICTS**

#### **18-10-01. Petition for establishment.**

Whenever sixty percent of the freeholders residing in any rural territory, equivalent in area to one township or more, elects to form, organize, establish, equip, and maintain a rural fire protection district, they shall signify such intention by presenting to the county auditor of the county or counties in which such territory is situated, a petition setting forth the desires and purposes of such petitioners. Such petition must contain the full names and post-office addresses of such petitioners; the suggested name of the proposed district, the area in square miles [kilometers] to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural fire protection district. The petitioners shall also present to the county auditor a plat or map showing the suggested boundaries of the proposed district and shall deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections 18-10-02 and 18-10-03. Provided, further, that any city located within the area, whether such city has a fire department or not, may be included in the rural fire district if sixty percent or more of the qualified electors residing therein sign such petition.

#### **18-10-02. Petition - Hearing - Order.**

Upon the filing of such petition in the office of the county auditor, the county auditor shall determine and certify that such petition has been signed by at least sixty percent of the freeholders whose names appear on the current tax schedules in the office of the county auditor and who appear to reside within the suggested boundaries of the proposed district. The county auditor shall thereafter designate a time and place of said petition to be heard by the board of county commissioners. Notice of such hearing must be given by publication two weeks in a newspaper of general circulation in the county, the last publication appearing at least seven days prior to said hearing; said notice must be addressed to "all persons residing in or having any interest in real or personal property located within the following boundaries" and must include a statement of the proposed boundaries as set forth in the petition; provided, that if the proposed district is situated within two or more counties, the county auditor of the county wherein the largest number of petitioners have signed shall confer with the auditor or auditors of the other county or counties concerned and shall obtain a certificate as to the adequacy of the petitions pertaining to said county or counties, and thereafter the county auditor shall designate a time and place for a hearing before a joint meeting of the boards of county commissioners of all counties in which the proposed district is to be situated and shall give notice thereof by publication in the manner hereinbefore provided. At the time and place so fixed, the board or boards of county commissioners shall meet, and all persons residing in or owning taxable property within the proposed district shall have an opportunity to be heard respecting the formation of such district or the location of the boundaries thereof. Thereupon the board or boards of county commissioners shall determine whether the proposed district is suited to the general fire protection policy of the county, or each of such counties, as a whole, determine the boundaries of the proposed district, whether as suggested in the petition or otherwise, and make a written order of such determination which must describe the boundaries of the district and be filed in the office of the county auditor or auditors of each county in which such district is situated.

#### **18-10-03. Notice of hearing.**

Following the filing of the order of the board of county commissioners, the county auditor shall designate a time and place for a public meeting of all electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of the district as fixed by the order of the board of county commissioners. Notice of such meeting must be given by publication two weeks in a newspaper of general circulation in the county, the last publication appearing at least seven days prior to said meetings; said notice must be addressed "to all electors who are owners of any interest in real

or personal property assessed for taxation in the district and who are residing within the following described boundaries" and must include a description of the boundaries of the district as set forth in the order of the board of county commissioners; provided, that if the proposed district is within two or more counties, the county auditor of the county in which the greater portion of the district is to be situated shall fix the time and place for the public meeting and cause notice thereof to be published in each county in which the district is to be situated in the manner hereinbefore provided.

**18-10-04. Organization - Board of directors.**

1. At the time and place fixed by the county auditor for the public meeting as provided in section 18-10-03, the electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of the district may decide by majority vote of those present whether the organization of the district may be completed. Permanent organization must be effected by the election of a board of directors consisting of not less than five residents of the district, at least one of whom must represent each township by having an interest in real or personal property assessed for taxation in the township the director is representing, if the district includes more than one township. If the district is composed of more than seven townships, the board may elect to have only seven members, but no more than two members may be from any township.
2. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. Except as otherwise provided in this subsection, all directors and officers must be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president must be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following July 1, 1969, must be selected by lot in the presence of a majority of such directors to serve one-year terms. Upon approval of a resolution by the board of directors, the office of secretary-treasurer may be filled by appointment rather than by election under this subsection. All officers shall serve without pay except the secretary-treasurer, who may be paid a salary determined by the board of directors.

**18-10-05. Regular meeting to be held.**

A regular meeting of the electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of a district must be held in the first quarter of each calendar year and special meetings may be called by the board of directors at any time. Notice thereof must be given by the secretary-treasurer by one publication in a legal newspaper of general circulation in each county in which such district is situated. The meeting must be held not less than seven days nor more than fourteen days after the date of publication of such notice.

**18-10-06. Powers of board of directors.**

The board of directors has the following general powers:

1. To determine upon a general fire protection program for the district.
2. To make an annual estimate of the probable expense for carrying out such program.
3. To annually certify such estimate to the proper county auditor in the manner provided by section 18-10-07.
4. To manage and conduct the business affairs of the district.
5. To make and execute contracts in the name of and on behalf of the district.
6. To purchase or lease such firefighting equipment, ambulances, or other emergency vehicles, supplies, and other real or personal property as is necessary and proper to carry out the general fire protection program of the district.
7. To incur indebtedness on behalf of the district in accordance with chapter 21-03, or, with respect to this chapter, within the limits prescribed by section 18-10-08, and to

authorize the issuance of evidences of such indebtedness as permitted by chapter 21-03, or, with respect to this chapter, as permitted under section 18-10-08, and to pledge any real or personal property owned or acquired by the district as security for the same.

8. To organize, establish, equip, maintain, and supervise a fire department or company to serve the district.
9. Generally to perform all acts necessary to fully carry out the purposes of this chapter.
10. In its sole discretion, to compensate the chief of the rural fire protection district for time spent in the performance of duties as the fire chief, when the board determines that the chief may suffer economic loss because of the amount of time taken from the chief's regular employment.
11. To establish a firefighters relief association under chapter 18-05.

#### **18-10-06.1. Development of firebreaks.**

The board of directors of a rural fire protection district, with other state and federal agencies, may evaluate the need for firebreaks and ensure that unprotected acreage enrolled in the conservation reserve program is dissected into approximately one-hundred-sixty-acre [64.75-hectare] containment areas for fire control. In developing plans for firebreaks, the board shall make the best possible use of existing natural and artificial barriers, such as lakes, streams, wetlands with water, ponds, clean tilled cropland, gravel pits, and roads. For purposes of this section, a firebreak means a strip of fire-retarding vegetation, no less than thirty feet [9.14 meters] nor more than fifty feet [45.72 meters] wide.

#### **18-10-07. (Effective for taxable years beginning before January 1, 2016) Fire protection policy to be determined - Tax levy limit - Voter-approved levy authority.**

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. The tax may not exceed a tax rate of five mills per dollar of the taxable valuation of property in the district except upon resolution adopted by the board of directors and approval by a majority of the qualified electors voting on the question at an annual or special meeting of electors called by the board of directors, the levy may be made in an amount not exceeding thirteen mills. If an election to approve or re-authorize an excess levy will be held at an annual or special meeting of electors of the district called by the board of directors, notice of the meeting and the proposed excess levy election must be provided by at least one publication in the official newspaper of each county in which the district is located at least seven days, but not more than fourteen days, before the date of the public meeting. The published notice must include the amount of the proposed tax rate increase in mills and the duration for which elector approval of the increase is sought and must include the location where, and hours during which, ballots may be cast.

Votes to approve or disapprove the levy increase must be cast on the date of the meeting. The polling place must remain open for at least six hours on the date of the meeting. The secretary-treasurer of the district shall prepare and distribute to qualified electors at the polling place paper ballots to conduct the election on the question of increased levy authority. Three election judges to receive and count the ballots, who are qualified electors of the district but not members of the board, must be selected at least seven days before the meeting by approval of a majority of the members of the board. A marked ballot must be delivered to one of the judges, folded to conceal its contents, the judge shall deposit it in the ballot box, and another judge shall enter the name of the elector who cast the ballot in the poll book. When the election is closed, the judges shall count the ballots and announce the result. Results of the election must be certified by the secretary-treasurer of the district and each of the election judges to the tax commissioner and to the county auditor of each county in which the district is located within ten

days after the election. The certificate must include a statement of the question as it appeared on the ballot, together with the total number of votes cast in favor, and the number of votes cast against, authorizing the excess levy.

After July 31, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. Additional levy authority authorized by the board of directors after petition of electors before August 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

**(Effective for taxable years beginning after December 31, 2015) Fire protection policy to be determined - Financial report - Tax levy limit - Vote-approved levy authority.** The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. In the year for which the levy is sought, a board of directors of a rural fire protection district seeking approval of a property tax levy under this chapter must file with the county auditor of the counties within the rural fire district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the rural fire protection district during that year. The tax may not exceed a tax rate of five mills per dollar of the taxable valuation of property in the district except upon resolution adopted by the board of directors and approval by a majority of the qualified electors voting on the question at an annual or special meeting of electors called by the board of directors, the levy may be made in an amount not exceeding thirteen mills. If an election to approve or re-authorize an excess levy will be held at an annual or special meeting of electors of the district called by the board of directors, notice of the meeting and the proposed excess levy election must be provided by at least one publication in the official newspaper of each county in which the district is located at least seven days, but not more than fourteen days, before the date of the public meeting. The published notice must include the amount of the proposed tax rate increase in mills and the duration for which elector approval of the increase is sought and must include the location where, and hours during which, ballots may be cast.

Votes to approve or disapprove the levy increase must be cast on the date of the meeting. The polling place must remain open for at least six hours on the date of the meeting. The

secretary-treasurer of the district shall prepare and distribute to qualified electors at the polling place paper ballots to conduct the election on the question of increased levy authority. Three election judges to receive and count the ballots, who are qualified electors of the district but not members of the board, must be selected at least seven days before the meeting by approval of a majority of the members of the board. A marked ballot must be delivered to one of the judges, folded to conceal its contents, the judge shall deposit it in the ballot box, and another judge shall enter the name of the elector who cast the ballot in the poll book. When the election is closed, the judges shall count the ballots and announce the result. Results of the election must be certified by the secretary-treasurer of the district and each of the election judges to the tax commissioner and to the county auditor of each county in which the district is located within ten days after the election. The certificate must include a statement of the question as it appeared on the ballot, together with the total number of votes cast in favor, and the number of votes cast against, authorizing the excess levy.

After July 31, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. Additional levy authority authorized by the board of directors after petition of electors before August 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later.. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

#### **18-10-08. Indebtedness of district limited.**

No district may become indebted for an amount that may not be payable from ninety percent of twenty times the current annual maximum tax levy as authorized by section 18-10-07. Within the limits herein authorized, the district has power to borrow money and to issue appropriate evidence of indebtedness thereof. No evidence of indebtedness issued under this chapter and sold at private sale may bear interest at a rate or rates and be sold at a price resulting in an average net interest cost higher than twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. No evidence of indebtedness issued under this chapter may be sold for less than ninety-eight percent of par value plus accrued interest, if any interest has accrued as of the date of delivery thereof. This section does not limit the authority of the district to incur indebtedness and issue bonds in accordance with chapter 21-03.

#### **18-10-09. Funds collected to be deposited.**

The following must be deposited in a state or national bank to the credit of the district fund and may be drawn out only by warrant:

1. All funds collected on behalf of the district through the levy of taxes.

2. All donations, contributions, bequests, or annuities received by or on behalf of the district.
3. All borrowed money received by or on behalf of the district.

Such claim voucher must be authorized by the board of directors and must bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. The books and accounts of the secretary-treasurer must be audited or annual reports must be filed as required by section 54-10-14.

**18-10-10. Rural fire department may enter into contract - Power of state and local government agencies to make contract - Reimbursement.**

Any rural fire protection district may elect to enter into a contract with another rural fire protection district to consolidate or cooperate for mutual fire protection and prevention purposes, including ambulance or emergency vehicle services. Any rural fire protection district, or two or more districts operating in conjunction pursuant to this section, may enter into a contract with any federal, state, or local government agency for fire protection service or fire protection cooperation, including ambulance or emergency vehicle services. State and local government agencies have the power to contract for fire protection service or fire protection cooperation. Federal, state, and local government agencies shall reimburse rural fire protection districts for fire protection services provided on real property owned by such agencies. Reimbursement must be on a reasonable annual fee based on the agency's acreage [hectarage] within the rural fire protection district, but in no event may such fee be an amount greater than if such property had been subject to property tax levies.

**18-10-11. Territory to be annexed.**

1. Any territory which is adjacent to the boundary of an existing rural fire protection district may be annexed to such district in the manner hereinafter provided.
2. The proceedings for the annexation, referred to in subsection 1, may be initiated by the presentation to the auditor of a petition signed by sixty percent or more of the qualified electors who are owners of any interest in real or personal property assessed for taxation in the territory to be annexed and who are residing within the boundaries of such territory stating the desires and purposes of such petitioners. The petition must contain a description of the boundaries of the territory proposed to be annexed. It must be accompanied by a map or plat and a deposit for publication costs.
3. The county auditor shall consult the tax schedules in the office of the county auditor and determine and certify whether or not such petition complies with the requirements of subsection 2 and that the qualified electors signing the same appear to reside within the boundaries described by such petition. Thereafter, the county auditor shall forward such petition, map or plat, and certificate to the board of directors of the district concerned.
4. Within thirty days after receiving the petition, map or plat, and certificate of the county auditor, in accordance with subsection 3, from the county auditor, such board of directors shall transmit the same to the proper county board, accompanied by a report in writing approving or disapproving the proposal contained in said petition, or approving such proposal in part and disapproving it in part.
5. If the report of the board of directors, referred to in subsection 4, disapproves the proposal, the petition must be rejected. If the report is favorable to such proposal, either in whole or in part, the board of county commissioners shall promptly designate a time and place for a hearing upon the petition and shall give notice thereof in the manner prescribed by section 18-10-02. At such hearing, any person owning taxable property or residing within the boundaries of the existing district or the territory to be annexed shall have the opportunity to be heard respecting the proposed annexation.
6. The board of county commissioners shall, at or shortly after the hearing referred to in subsection 5, determine whether such territory should be annexed to the existing district and shall fix the boundaries of the territory to be annexed. The determination of the board of county commissioners must be set forth in a written order which must

describe the boundaries determined upon and must be filed in the office of the county auditor; provided, that no area may be annexed to an existing rural fire protection district contrary to the recommendation of the board of directors of such existing district.

#### **18-10-12. Boundaries of rural fire protection district.**

The boundaries of any rural fire protection district organized under the provisions of this chapter may be changed in the manner prescribed by sections 18-10-02 and 18-10-03, but the changes of boundaries of any such district may not impair or affect its organization or its right in or to property; nor may it impair, affect, or discharge any contract, obligation, lien, or change for or upon which it might be liable had such change of boundaries not been made.

##### **18-10-12.1. Withdrawal from rural fire protection district.**

Any person having an ownership interest in property subject to a mill levy as provided for in section 18-10-07 and wishing to withdraw such property from the rural fire protection district may do so as provided in this section, subject to the following restrictions:

1. The territory to be withdrawn from the district must border on the outer boundary of the district.
2. The territory to be withdrawn from the district remains subject to and chargeable for the payment and discharge of the proportion of obligations outstanding at the time of filing the petition for the withdrawal of the territory that the taxable valuation of property in the territory to be withdrawn bears to the taxable valuation of all property within the district prior to withdrawal.
3. Mill levies imposed under section 18-10-07 remain in effect until the proportionate share of outstanding obligations are paid.
4. The proceedings for withdrawal must be initiated by the filing of a petition with the appropriate county auditor or auditors signed by the fee title holders of sixty percent of the surface acreage in the territory sought to be withdrawn and contain a description of the boundaries of the territory sought to be withdrawn and a map or plat illustrating such area.
5. The county auditor shall verify from the tax schedules and determine whether the petition complies with the requirements of subsection 4.
6. The county auditor shall determine and certify the respective percentage proportions of the taxable valuation of the territory petitioned to be withdrawn to the taxable valuation of all property in the district prior to withdrawal to the board of directors of the district concerned.
7. Within twenty days after receipt of the petition, verification, and computation of respective percentage proportions, the board of directors of the district concerned shall attach to the petition a statement of outstanding obligations of the district and shall forward the petition to the appropriate board or boards of county commissioners.
8. The board or boards of county commissioners shall, at a regular meeting, compute the indebtedness proportionately assignable to the territory sought to be withdrawn, and shall, by written order, describe the boundaries of the territory withdrawn and the indebtedness of the district assigned to the territory and subject to continued levy under section 18-10-07. The order and computation must be filed in the office of the county auditor or auditors.
9. The annual estimate required under section 18-10-07 must reflect the annual expense of retiring principal and interest upon the proportionate share of district indebtedness assigned to withdrawn territory.

#### **18-10-13. County auditor to set date for hearing.**

The county auditor of each county in which any rural fire protection district or districts have been organized under the provisions of this chapter, prior to the effective date of this chapter, shall forthwith designate a time and place for a hearing before the county board of such county and shall give due notice thereof in the manner prescribed by section 18-10-03. At the time and

place so fixed the board of county commissioners shall meet and all persons interested shall have opportunity to be heard. Thereupon, the board of county commissioners shall consider the general rural fire protection policy for the county as a whole and shall determine the boundaries of said district or districts, whether as existing prior to such determination or otherwise, and shall make a written order of such determination which shall be filed in the office of the county auditor. Thereafter, such district or districts must be deemed to be organized and operating under the provisions of this chapter. Nothing herein contained may impair, affect, or discharge any previously existing contract, obligation, lien, or change of said district or districts.

**18-10-14. Rate of tax fixed.**

Repealed by S.L. 2015, ch. 439, § 104.

**18-10-15. Payments by certain organizations.**

Any club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within a rural fire protection district and outside the boundaries of any city shall pay to the board of directors of the district annually for fire protection such amount as may be agreed upon, but not less than twenty-five percent of the amount which would be levied against such property under the provisions of this chapter if such property were subject to such levy.

Funds derived from such payments must be expended by the district for firefighting supplies and equipment and the training of fire department personnel. The board of directors shall file an annual statement with the state fire marshal showing the names of persons or organizations making payments and the amounts of payments made under this section.

**18-10-16. State fire marshal to establish rural routing systems.**

The state fire marshal, with the advice and cooperation of the North Dakota firefighters association, may establish a system of rural routings which must be as uniform as is practicable throughout the state, for the purpose of aiding rural firefighting equipment and other emergency vehicles in locating and arriving quickly at the scene of a fire or other emergency within any area which they might logically be called upon to serve.

**18-10-17. Rural fire protection district - Civil immunity.**

No rural fire protection district, nor any personnel of the district, acting within the scope of its authority is liable for any claim resulting from the failure to provide or maintain sufficient personnel, equipment, or other fire protection facilities; or doing any extinguishment or fire prevention work, rescue, resuscitation, or first aid; or any other official acts within the scope of official duties; provided, however, this section does not provide immunity for damages resulting from acts of gross negligence.